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8 Attorneys for Defendants  
9 WACHOVIA FINANCIAL SERVICES, WACHOVIA  
MORTGAGE CORPORATION, WACHOVIA SHARED  
10 RESOURCES, LLC (erroneously sued as Wachovia  
Services, Inc.), WORLD MORTGAGE COMPANY,  
11 WACHOVIA COMMERCIAL MORTGAGE, INC.,  
WORLD SAVINGS, INC., WACHOVIA EQUITY  
12 SERVICING, LLC, WACHOVIA BANK, N.A., and  
13 WACHOVIA CORPORATION

14 UNITED STATES DISTRICT COURT  
15 NORTHERN DISTRICT OF CALIFORNIA  
16

17 RONALD CHIN, individually, and on behalf of  
other members of the general public similarly  
18 situated,

19 Plaintiff,

20 vs.

21 WACHOVIA FINANCIAL SERVICES, INC.;  
22 WACHOVIA MORTGAGE CORPORATION;  
WACHOVIA SERVICES, INC.; WORLD  
23 MORTGAGE COMPANY; WACHOVIA  
COMMERCIAL MORTGAGE, INC.; WORLD  
24 SAVINGS, INC.; WACHOVIA EQUITY  
SERVICING, LLC; WACHOVIA BANK, N.A.;  
25 WACHOVIA CORPORATION; and DOES 1  
26 through 10, inclusive,

27 Defendants.  
28

CASE NO. 4:08-cv-00684-CW

**DEFENDANTS'  
ADMINISTRATIVE MOTION TO  
CONSIDER WHETHER CASES  
SHOULD BE RELATED  
PURSUANT TO CIVIL LOCAL  
RULE 3-12**

[Declaration of J. Raza Lawrence filed  
concurrently]

1 **I. INTRODUCTION**

2 Pursuant to Civil Local Rules 3-12 and 7-11, defendants Wachovia Financial  
3 Services, Inc., Wachovia Mortgage Corporation, Wachovia Shared Resources, LLC (erroneously  
4 sued as its predecessor-in-interest Wachovia Services, Inc.), World Mortgage Company,  
5 Wachovia Commercial Mortgage, Inc., World Savings, Inc., Wachovia Equity Servicing, LLC,  
6 Wachovia Bank, N.A., and Wachovia Corporation (“Defendants”) hereby submit this  
7 administrative motion to request that the Court relate the following cases:

8 *Ronald Chin v. Wachovia Financial Services, Inc., et al.*, Case No.  
9 4:08-cv-00684-CW, filed January 29, 2008; and

10 *Ronald Chin v. Wachovia Financial Services, Inc., et al.*, Case No.  
11 3:08-cv-01320-MMC, originally filed in the California Superior  
12 Court for the County of Alameda on January 29, 2008 and removed  
to the United States District Court for the Northern District of  
California on March 7, 2008.

13 The cases should be deemed related because the two complaints are virtually  
14 identical, filed against the same defendants, on behalf of the same group of employees, purporting  
15 to rely on the same factual allegations, and seeking the same damages and relief.

16 **II. BACKGROUND**

17 Plaintiff Ronald Chin (“Plaintiff”), who alleges that he worked as a “Loan  
18 Representative” for “Defendants” from August 2006 to February 2007, filed two nearly identical  
19 lawsuits on January 29, 2008, one in federal court and the other in state court. On March 7, 2008,  
20 Defendants removed the action that Plaintiff filed in state court, and that action was assigned to  
21 the Honorable Maxine M. Chesney.

22 Both actions are so-called “off the clock” cases in which Plaintiff contends that he  
23 and others were properly classified as non-exempt employees but were not paid properly for all of  
24 the hours that each of them individually worked. Plaintiff also contends in both actions that  
25 Defendants did not provide him and others with meal and rest periods as required by law, and that  
26 Defendants did not comply with wage reporting requirements. In both actions, Plaintiff sued the  
27 same nine defendants – Wachovia Financial Services, Inc. and various affiliated companies. And  
28 in both actions, Plaintiff seeks to recover unpaid wages and actual and consequential damages on

1 behalf of the same group of Defendants' employees who worked in California in recent years.  
2 The only significant difference between the two complaints is that, in one of the two complaints,  
3 Plaintiff also seeks to recover certain penalties on behalf of purportedly "aggrieved employees"  
4 pursuant to the Labor Code Private Attorneys General Act ("PAGA").

5 **III. ARGUMENT**

6 Civil Local Rule 3-12(a) provides that "[a]n action is related to another when:  
7 (1) The actions concern substantially the same parties, property, transaction or event; and (2) It  
8 appears likely that there will be an unduly burdensome duplication of labor and expense or  
9 conflicting results if the cases are conducted before different Judges." This test is satisfied here.

10 First, the two actions filed by Plaintiff clearly "concern substantially the same  
11 parties, property, transaction or event." As explained above, both cases that Plaintiff filed  
12 concern identical defendants, identical transactions or events, an identical alleged class of  
13 employees, and call for determination of identical or substantially similar questions of law and  
14 fact. While only one of the two complaints seeks to recover penalties under PAGA, both  
15 complaints rely on exactly the same alleged factual violations.

16 Second, there would likely be "an unduly burdensome duplication of labor and  
17 expense or inconsistent results" if the two cases were to proceed separately and before different  
18 judges. As noted, the two cases allege related claims against the same defendants based on the  
19 same alleged facts during the same time period. There will obviously be duplication of effort—  
20 and a risk of inconsistent results—if two different judges have to resolve the same underlying  
21 factual (and necessarily individualized) questions raised by the two complaints. That is precisely  
22 the situation that the rules regarding related cases are designed to avoid. The principles set forth  
23 in Civil Local Rule 3-12(a) would be ill-served if plaintiffs were permitted to bring separate suits  
24 on the same factual allegations and avoid relation merely because the causes of action or the  
25 remedies sought vary.

26 Although Defendants have attempted to obtain a stipulation from Plaintiff that  
27 Plaintiff's two complaints should be deemed related, Plaintiff's counsel has refused to stipulate to  
28

1 the relation. *See* Declaration of J. Raza Lawrence (filed concurrently herewith). Plaintiff's  
2 counsel has not explained the basis for this position.

3 **IV. CONCLUSION**

4 For these reasons, the two cases filed by Plaintiff should be deemed related,  
5 pursuant to Civil Local Rule 3-12, and the matter captioned *Ronald Chin v. Wachovia Financial*  
6 *Services, Inc., et al.*, Case No. 3:08-cv-01320-MMC, should be transferred to the Honorable  
7 Claudia Wilken.

8  
9 DATED: March 14, 2008

MUNGER, TOLLES & OLSON LLP  
MALCOLM A. HEINICKE

11 By: /s/ Malcolm A. Heinicke

12 MALCOLM A. HEINICKE

13 Attorneys for Defendants  
14 WACHOVIA FINANCIAL SERVICES,  
15 WACHOVIA MORTGAGE CORPORATION,  
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